

Declaration under 37 § CFR 1.132

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

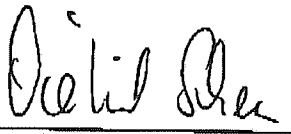
SIR:

Now comes Dr. Dietrich Scherzer who declares and states that

- (1) I obtained a Ph.D. from the University of Ulm, Germany, in the field of Organic Chemistry.
- ~~(2) I have been employed by BASF Aktiengesellschaft since 1985 where I have engaged in the field of polymers, especially polymer foams.~~
- (3) My postal address is as follows:

BASF Aktiengesellschaft
GKT/R – B1
Carl-Bosch-Straße 38
67056 Ludwigshafen
Germany
- (4) I am a BASF representative responsible for the above-identified application.
- (5) In regard to the above-identified application, I have read the Specification; pending Claims, the Office Action of April 30, 2008, the disclosure of Dietzen et al. (US 7,045,085), and I am familiar with the issues associated with the present invention.
- (6) I declare the following concerning the polyether sulfone ULTRASON®2010 from BASF used in example 1 in Dietzen et al. and the polyether sulfone 3010E from BASF used in example 1 of the present invention (page 13, line 20).

- (7) The melting temperature and the melting behaviour of ULTRASON® 2010 and polyether sulfone 3010E are comparable.
- (8) Example 1 of Dietzen et al. can therefore directly compared with example 1 according to the present invention.
- (9) According to example 1 in Dietzen et al. the foaming temperatures for foaming ULTRASON® 2010 range from 243.8°C to 250.2°C (table 1, example 1, column 2).
- (10) However, according to example 1 according to the present invention (page 13, table 1, comparative example 1*) a closed-cell foam is formed at 249.1°C. Only if higher temperatures are used, an open-cell foam having an open cell factor of at least 75% is obtained.
- (11) Example 1 in Dietzen et al. does therefore not disclose polyether sulfone foams having an open cell factor of at least 75%.
- (12) The undersigned Petitioner declare further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of this application or any patent issuing thereon.
- (13) Further deponents saith not.



Dr. Dietrich Scherzer

August 27th 2008

Date